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dba Beitler Commercial Realty Services

**UNITED STATES BANKRUPTCY COURT
CENTRAL DISTRICT OF CALIFORNIA
SANTA ANA DIVISION**

In re:

JOHN JEAN BRAL

Debtor and Debtor-
in-Possession.

BEITLER & ASSOCIATES, INC. dba
BEITLER COMMERCIAL REALTY
SERVICES,

Plaintiff,

v.

JOHN JEAN BRAL,

Defendant.

Case No. 8:17-bk-10706-SC

Chapter 11

Adv. Case No. 8:17-ap-01094-SC

**EVIDENTIARY OBJECTIONS TO
DECLARATION OF JOHN J. BRAL IN
SUPPORT OF MOTIONS TO BIFURCATE
ISSUES OF LIABILITY AND
DISCHARGEABILITY IN ADVERSARY,
OR TO STAY ADVERSARY UNTIL
UNDERLYING LIABILITY ON CLAIMS
IS DETERMINED IN ANOTHER
PROCEEDING**

Date: October 19, 2017

Time: 11:00 a.m.

Place: Courtroom 5C
411 West Fourth Street
Santa Ana, CA

Beitler & Associates, Inc. (“Plaintiff”) hereby submits these Evidentiary Objections to that certain *Declaration Of John J. Bral In Support Of Motions To Bifurcate Issues Of Liability And Dischargeability In Adversary, Or To Stay Adversary Until Underlying Liability On Claims Is Determined In Another Proceeding* (the “Declaration”) [Doc. No. 10] filed by Defendant John Jean Bral (the “Debtor” or “Defendant”).

I. Summary of Objections

The Declaration is a poor substitute for actual evidence. Most, if not all of the Declaration, constitutes inadmissible argument, opinion, and hearsay, and none of the assertions set forth in the Declaration are supported by any actual evidence, documentary or otherwise.

II. Evidentiary Objections

A. Page 2, Paragraph 5: “Over time, Beitler used his substantially greater financial resources to try to gain economic advantages over me and other members in the SPEs, and to bring about my financial ruin. For example when the SPEs’ loans fell into default, Beitler would acquire these loans (through newly formed LLC’s 100% owned and controlled by Beitler) and then foreclose upon the properties owned by the SPEs and to the detriment of his former co-members. Worse, the entities controlled by Beitler then sought recourse against me on the guarantees that I executed securing these loans, while ignoring the co-guarantees that Beitler and his related entities executed.”

Objection: Lack of Foundation. Fed. R. Evid. §§602, 701; Improper Opinion and Argument. Fed R. Evid. §§ 701, 702. The Debtor has not established any foundation for any of the statements that he makes in paragraph 5 of the Declaration. Moreover, these statements constitute nothing more than opinion and argument, devoid of any actual facts or factual references. Moreover, these general, vague, and irrelevant statements are not supported by any specific facts, information, or documentation.

Sustained:_____

Overruled:_____

1 **B. Page 4, paragraph 11, lines 5 - 8:** “In order to resolve whether or not the Beitler Parties
2 have any claims, the presiding court will have to resolve a host of difficult legal issues and weight
3 the merits of competing forensic accounting reports and testimony.”

4 **Objection:** Lack of Foundation. Fed. R. Evid. §§602, 701; Improper Opinion and
5 Argument. Fed R. Evid. §§ 701, 702. The Debtor has not established any foundation for this
6 statement. Moreover, this statement constitute nothing more than legal opinion and argument,
7 devoid of any actual facts or factual references.

8 Sustained:_____

9 Overruled:_____

10
11 **C. Page 6, para. 24:** “When the Loan fell into default, Beitler acquired it, through Steward,
12 and initiated a foreclosure against the OV Property, instead of working to protect the rights of
13 Ocean View’s members.”

14 **Objection:** Lack of Foundation. Fed. R. Evid. §§602, 701; Improper Opinion and
15 Argument. Fed R. Evid. §§ 701, 702. The Debtor has not established any foundation for the
16 statement “instead of working to protect the rights of Ocean View’s members.” Moreover, this
17 statement constitute nothing more than legal opinion and argument, devoid of any actual facts or
18 factual references.

19 Sustained:_____

20 Overruled:_____

21
22 **D. Pages 7 – 8, paras. 32 – 35:** Entire section of Declaration titled “The Importance Of
23 Objecting To The Beitler Parties’ And Steward Claims”

24 **Objection:** Lack of Foundation. Fed. R. Evid. §§602, 701; Improper Opinion and
25 Argument. Fed R. Evid. §§ 701, 702; Hearsay. Fed R. Evid. §§ 801, 802.

26 The Debtor has not established any foundation for the statements set forth in this section
27 of the Declaration, much of which is based on what unspecified persons “advised” the Debtor (*see*
28

statements beginning with phrase “I have been advised” and “I have also been advised”).
Moreover, these statements constitute nothing more than opinion and argument, devoid of any
actual facts or factual references.

Sustained:_____

Overruled:_____

Dated: October 5, 2017

LEVENE, NEALE, BENDER, YOO & BRILL L.L.P.

By: /s/ Krikor J. Meshefejian

GARY E. KLAUSNER

KRIKOR J. MESHEFEJIAN

PROOF OF SERVICE OF DOCUMENT

I am over the age of 18 and not a party to this bankruptcy case or adversary proceeding. My business address is: 10250 Constellation Boulevard, Suite 1700, Los Angeles, CA 90067

A true and correct copy of the foregoing document entitled: **EVIDENTIARY OBJECTIONS TO DECLARATION OF JOHN J. BRAL IN SUPPORT OF MOTIONS TO BIFURCATE ISSUES OF LIABILITY AND DISCHARGEABILITY IN ADVERSARY, OR TO STAY ADVERSARY UNTIL UNDERLYING LIABILITY ON CLAIMS IS DETERMINED IN ANOTHER PROCEEDING** will be served or was served (a) on the judge in chambers in the form and manner required by LBR 5005-2(d); and (b) in the manner stated below:

1. TO BE SERVED BY THE COURT VIA NOTICE OF ELECTRONIC FILING (NEF): Pursuant to controlling General Orders and LBR, the foregoing document will be served by the court via NEF and hyperlink to the document. On **October 5, 2017**, I checked the CM/ECF docket for this bankruptcy case or adversary proceeding and determined that the following persons are on the Electronic Mail Notice List to receive NEF transmission at the email addresses stated below:

- Beth Gaschen bgaschen@wglp.com, kadele@wglp.com;lfisk@wglp.com;lgauthier@lwgfllp.com;nlockwood@lwgfllp.com
- Mark D Hurwitz mhurwitz@lsl-la.com, dsmall@lsl-la.com
- Gary E Klausner gek@lnbyb.com
- William N Lobel wlobel@lwgfllp.com, nlockwood@lwgfllp.com;jokeefe@lwgfllp.com;banavim@wglp.com
- Krikor J Meshefejian kjm@lnbrb.com
- United States Trustee (SA) ustpreion16.sa.ecf@usdoj.gov

2. SERVED BY UNITED STATES MAIL: On **October 5, 2017**, I served the following persons and/or entities at the last known addresses in this bankruptcy case or adversary proceeding by placing a true and correct copy thereof in a sealed envelope in the United States mail, first class, postage prepaid, and addressed as follows. Listing the judge here constitutes a declaration that mailing to the judge will be completed no later than 24 hours after the document is filed.

☐ Service information continued on attached page

3. SERVED BY PERSONAL DELIVERY, OVERNIGHT MAIL, FACSIMILE TRANSMISSION OR EMAIL (state method for each person or entity served): Pursuant to F.R.Civ.P. 5 and/or controlling LBR, on **October 5, 2017**, I served the following persons and/or entities by personal delivery, overnight mail service, or (for those who consented in writing to such service method), by facsimile transmission and/or email as follows. Listing the judge here constitutes a declaration that personal delivery on, or overnight mail to, the judge will be completed no later than 24 hours after the document is filed.

Served via Overnight Mail

Hon. Scott C. Clarkson
United States Bankruptcy Court
Ronald Reagan Federal Building and Courthouse
411 West Fourth Street, Suite 5130 / Courtroom 5C
Santa Ana, CA 92701-4593

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct.

October 5, 2017	Stephanie Reichert	/s/ Stephanie Reichert
Date	Type Name	Signature